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SHIONOGI & CO., LTD.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

13 SHIONOGI & CO., LTD., a Japanese company,

Plaintiff,

V.

INTERMUNE, INC., a Delaware corporation,

Defendant.

Case No. 3:12-CV-03495 EDL

**STIPULATION REGARDING
DISMISSAL WITHOUT PREJUDICE
OF CLAIMS 3-5 OF THE
COMPLAINT**

1. WHEREAS, Plaintiff Shionogi & Co., Ltd. ("Shionogi") filed its Complaint against InterMune, Inc. ("InterMune") for Breach of Contract, Declaratory Relief, Promissory Estoppel, Unjust Enrichment and Accounting (the "Complaint") on July 5, 2012; and

2. WHEREAS, the parties have determined that the case may be streamlined under the circumstances;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between the parties, through their counsel, that:

A. InterMune stipulates that the Agreement for Collaboration to Exchange Documents from Clinical Studies between Shionogi and InterMune, effective as of May 27, 2004, and as amended effective February 11, 2010, is valid and binding on the parties thereto;

B. Shionogi will voluntarily dismiss without prejudice the Promissory Estoppel, Unjust Enrichment and Accounting claims (the Third through Fifth Claims for Relief) of the Complaint by filing a First Amended Complaint omitting those claims on August 31, 2012; and

C. To the extent circumstances arise supporting a good faith basis for Shionogi to reassert the Promissory Estoppel, Unjust Enrichment and Accounting claims, InterMune will not argue that Shionogi is precluded from asserting those claims by virtue of their earlier dismissal and will not argue that those claims are time-barred either by the applicable statute of limitations or equitable defenses such as laches, provided that such claims were not otherwise time-barred as of July 5, 2012.

Dated: August 31, 2012 Jones Day

By: /s/ Jason McDonell
Jason McDonell

Attorneys for Plaintiff
SHIONOGI & CO., LTD.

Dated: August 31, 2012

LATHAM & WATKINS LLP

By: /s/ Patrick E. Gibbs
Patrick E. Gibbs

Attorney for Defendant
INTERMUNE, INC.

1 **CIVIL L.R. 5(i)(3) ATTESTATION OF CONCURRENCE OF SIGNATORIES**

2 I, Jason McDonell, am the ECF user whose identification and password are being used to
3 file this Stipulation. Pursuant to Civil L.R. 5(i)(3), I hereby attest that Patrick E. Gibbs, counsel
4 for Defendant, has concurred in the filing of this documents.

5 Dated: August 31, 2012

6 Jones Day

7 By: /s/ Jason McDonell
8 Jason McDonell

9 Attorneys for Plaintiff
10 SHIONOGI & CO., LTD.

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